

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	November 19, 2008
Location	6900 Atmore Drive
	Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	James H. Burrell
	Peter G. Decker, III
	Jacqueline F. Fraser
	Gregory M. Kallen
	Raymond W. Mitchell
	B. A. Washington, Sr.
Absent	James R. Socas
	W. Randy Wright

1:00 p.m., Wednesday, November 19, 2008

6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. The roll was called by Mrs. Woodhouse. Mr. Proffitt noted a quorum was present. Two members were absent, as indicated during the verbal roll call and as noted above.

I. Board Chairman (Mr. Proffitt)

1) Welcome to Newest Board Member

The Chairman welcomed Mr. B. A. Washington, Sr. and congratulated him on his appointment to the Board. Mr. Washington is the former three-term Sheriff from Charles City County, who retired in 2007. The Board extends a warm welcome to Mr. Washington.

2) Recognizing Former Board Member W. Alvin Hudson, Jr.; Proposed Board Motion to Include Resolution to Mr. Hudson in the Minutes of the Board

Mr. Proffitt spoke with Mr. Hudson to invite him to Richmond for the formal presentation of the Resolution in his honor. Unfortunately, due to health concerns, Mr. Hudson was unable to make the trip but asked that the Chairman to pass along how appreciative he was of the friends he made while on the Board, how much he had enjoyed his years spent on the Board and how much he would miss everyone.

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The Chairman then read into the record the Resolution recognizing Mr. Hudson:

***RECOGNIZING W. ALVIN HUDSON, JR., UPON HIS DEPARTURE
FROM THE VIRGINIA BOARD OF CORRECTIONS***

On *MOTION* of the Virginia Board of Corrections, duly made and seconded, the following resolution was adopted:

WHEREAS, W. Alvin Hudson, Jr., has served the Commonwealth faithfully since July 1, 2004, when he was appointed to the Virginia Board of Corrections by former Governor Mark Warner. W. Alvin Hudson, Jr., attended his first meeting as a member of the Board on September 15, 2004; and

WHEREAS, W. Alvin Hudson, Jr., served the Board and citizens of the Commonwealth in a non-partisan manner under Governors Warner and Kaine and Board Chairmen Clay B. Hester and Sterling C. Proffitt with marked integrity, pursuing the letter and intent of the law; and

WHEREAS, during his three-plus years as a member in good standing of the Board of Corrections, W. Alvin Hudson, Jr., attended and actively participated in as many scheduled meetings as practicable; and

WHEREAS, during his years as a member of the Board, W. Alvin Hudson, Jr., participated in many frank discussions regarding the treatment of inmates in local jails, understood the importance of his professional responsibility beyond the Board and in so doing, became an active proponent of issues important to the Commonwealth, to the Board and to his fellow Board members; and **WHEREAS**, W. Alvin Hudson, Jr., announced his resignation from the Virginia Board of Corrections as a member in good standing in June of 2008.

NOW, THEREFORE BE IT RESOLVED, that the Virginia Board of Corrections, this 19th day of November, 2008, publicly recognizes the contributions of W. Alvin Hudson, Jr., to the Virginia Board of Corrections, the Virginia Department of Corrections and the citizens of the Commonwealth of Virginia;

AND, BE IT FURTHER RESOLVED, that the Board thanks him for his commitment to the Commonwealth;

AND, BE IT FINALLY RESOLVED, that a copy of this resolution be presented to W. Alvin Hudson, Jr., and that this resolution be permanently recorded and retained in the papers of the Board of Corrections, Commonwealth of Virginia.

/s/

James H. Burrell; Peter G. Decker, III; Jacqueline F. Fraser; Gregory M. Kallen; Raymond W. Mitchell; Sterling C. Proffitt; James R. Socas; B. A. Washington, Sr., and W. Randy Wright.

The *MOTION* was duly made by Mr. Mitchell and seconded by Mr. Burrell. The Resolution was **APPROVED** as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Kallen, Mitchell, Washington). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Two members were absent. The Motion carried.

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The Resolution will be mailed to Mr. Hudson.

3) **Motion to Approve July Board Minutes**

The Chairman called for a Motion to approve the July Board Minutes.

By **MOTION** duly made by Mr. Mitchell and seconded by Mr. Burrell, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Two members were absent. Mr. Decker **ABSTAINED** as he was not present at the July meeting. Mr. Washington's vote was not counted as he was not a member of the Board in July. The Motion carried.

4) **Motion to Approve September Board Minutes**

The Chairman called for a Motion to approve the September Board Minutes.

By **MOTION** duly made by Mr. Burrell and seconded by Ms. Fraser, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Two members were absent. Mr. Kallen **ABSTAINED** as he was not present at the September meeting. Mr. Washington's vote was not counted as he was not a member of the Board in September. The Motion carried.

5) **Motion to Approve October Board Minutes**

The Chairman indicated there would be no vote on the proposed October Minutes as there must be a quorum of members present and voting at the current meeting who were present at the meeting whose activity is being voted on and this was not the case. This item will be revisited at the March, 2009, meeting.

II. **Public/Other Comment (Mr. Proffitt)**

Mr. and Mrs. John Roles were present at the meeting. Mrs. Roles addressed the Board regarding a former regional jail inmate who contracted MRSA while being held and who it is alleged did not receive proper medical treatment while he was being held. After seven months, the inmate was found innocent of charges against him and was recently released. However, it is alleged that as a result of his not being cared for properly, he has had to undergo several surgeries. Mrs. Roles was asking for the Board's help in ensuring this does not happen to anyone else. There were general questions from the Board. Mrs.

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Roles' concerns were duly noted. No Board action is required.

III. Presentation to the Board

There were no presentations scheduled this month.

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell gave a brief overview of the Committee meeting. Ms. DeSocio presented a summary of the Governor's mandated spending reductions. Mr. Wilson with the Department's Compliance & Accreditation Unit reported the jail population and out-of-compliance figures. Ms. Lipp with the Department's A&E Services Unit reported on the Grayson County project, which is progressing and on schedule for completion in the spring of 2010.

Mr. Proffitt then noted that Mr. Christopher Webb of the Blue Ridge Regional Jail and Liaison Committee Chairman announced that he will be retiring in February of 2009 and that a new Liaison Committee Chair will have to be appointed.

There was some general discussion and comment. No Board action is required. Mr. Proffitt thanked Mr. Burrell for his report.

V. Administration Committee (Mr. Decker)

1) Overtime Report for 1Q 2009 Ended September 30, 2008

Mr. Decker reported that this quarter's overtime report was encouraging in that there was a decrease of \$1 million over the same period last year. Unfortunately, the Department continues its need to incur overtime costs with the reasons for such being (but not limited to): vacancies, training, disability, military leave, weather-related conditions and security conditions. It was reported that Wardens are keeping a close watch on overtime expenditures and are tightening belts as much and as often as possible.

2) Correctional Officer Vacancy Rates for Period Ended September 30, 2008

The Correctional Officer vacancy rate as of September 30, 2008, was 9.21 percent. As a result of budget cuts and the resultant layoffs, affected staff are being relocated and placed whenever possible. This process is ongoing and is going well.

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3) **Discussion Regarding the Washington Post Editorial:
Cutting the Prison Rate Safely – Defying the Trend**

Ms. Cookie Scott brought Research and Budget staff to the Committee meeting to provide their thoughts about this article. In all, it was agreed that Virginia is doing a good job but could do more if alternatives were available. The Committee felt it important to reiterate that spending on bricks and mortar is not the answer; and the Director's motto to lock up those we are afraid of, not those we are mad at is worthy of serious consideration.

As a result of the discussion, Mr. Kallen suggested that a presentation on this subject be made to the full Board at the March, 2009, Board meeting. Ms. Scott will ensure this will occur.

There were some general comments. No Board action is required. Mr. Proffitt thanked Mr. Decker for his report.

VI. Correctional Services Committee Report/Policy & Regulations (Ms. Fraser)

With Board members Burrell, Fraser, Mitchell, Washington and Proffitt and several guests present, the Committee met to discuss several items.

1) **Discussion Regarding Financial Audits of Community Residential Programs**

Mr. David Castle was present representing Secor/Lebanon, a community residential program in Southwest Virginia. He expressed concern about the cost of annual financial audits as required by the **Standards for Community Residential Programs** (6 VAC 15-70). Specifically, he requested a clear definition of 6 VAC 15-70-50F (*new 50E, effective 11/15/08*), "an annual independent financial audit of the agency shall be performed by a certified public accounting firm or a governmental auditing agency" with some guidance as to the parameters for what is required in that annual independent financial audit.

Inspector General June Jennings was present during the discussion. As a result of Mr. Castle's concerns, she agreed to research the possibility of having her Internal Audit staff conduct some of the financial audits for a fee, as the **Standard** indicates they can be performed by a CPA or a governmental agency. It was noted that some facilities report that the costs involved in having these audits performed is prohibitive. Ms. Jennings will report back to the Committee in March.

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2) **Proposed Board Motion to Approve Suspension of Certain Unannounced Inspections**

Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards has been attained in the jail's Triennial Certification Audit. Since the last approval, two jails have achieved 100% compliance with Board Standards. They are: the Bedford and Moneta Adult Detention Centers of the Blue Ridge Regional Jail.

The Committee agrees with the assessment and recommends by ***MOTION*** duly made by Ms. Fraser and seconded by Mr. Decker, **"The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2008 Annual Inspection for the Bedford and Moneta Adult Detention Centers of the Blue Ridge Regional Jail."**

The Motion was ***APPROVED*** by verbally responding in the affirmative (Burrell, Decker, Fraser, Kallen, Mitchell, Washington). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Two members were absent. The Motion carried.

3) **Board Motion to Approve Modification Request for Virginia Beach Correctional Center**

This is a request from the Virginia Beach City Council to grant a modification to Standard 5.44 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, which relates to the use of flexible metal conduit within the security perimeter of the Virginia Beach Correctional Center. The facility is requesting that the flexible metal conduit used to connect lighting fixtures within the secure perimeter be allowed to remain.

The Standards do not allow flexible metal conduit within the security perimeter of a facility because of the potential and ease of making it into a weapon. Liquid tight conduit is used instead because while it is not a "security product," it is more difficult to fashion into a weapon. During reviews and inspections, staff has allowed the use of this product in locations where the product is encased by concrete, protected by a security ceiling or equivalent protection and in administrative areas. Many of the areas indicated in this request are in areas that do not provide physical protection to the product.

During the Committee meeting, no one from the facility was in attendance and the Committee had come to the Board with a recommendation. However, during the Board meeting, Mr. Maholchic, project manager, and Captain Schuster from the facility were present to address the Board. The Chairman allowed their comments.

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Mr. Maholchic contended that the connector for the flexible metal conduit is more secure than the liquid tight conduit and gave demonstrations of both. He remarked that liquid tight conduit was used because it is designed to be water tight. Captain Schuster described the areas where these lighting fixtures are located: above a 10-foot ceiling which is security and electronically monitored 24 hours a day, seven days a week.

After listening to Mr. Maholchic and Captain Schuster, Mr. Proffitt conceded their argument had merit but had concerns as there is a Standard in place which should be adhered to. He inquired of staff as to whether this had come up in any other jails. Mr. Maholchic responded that he personally knew that the first two phases of the Virginia Beach facility and the Chesapeake Jail did not have liquid tight conduit. He also stated that if the facility had to go back and change out all of these conduits, it would have a major financial impact. The Chairman asked Mr. Maholchic if he knew what that impact would be, and he responded that the direct costs would be \$500,000 for the new jail and which did not figure in indirect costs.

There was more discussion, including a question as to which product was used in state correctional facilities. Mr. Maholchic did admit that the project was designed with flexible conduit but they did not regard it as an issue because Chesapeake Jail had flexible conduit; and when it was pointed out by staff that the wrong conduit had been used, it was too late in the construction process to do anything about it and monetarily they felt they had no choice but to continue.

As a result of the comments and discussion, Ms. Fraser stated that the Board had three options: to deny the modification request to allow the use of flexible metal conduit within the security perimeter of the Virginia Beach Jail with the exception that flexible conduit is allowed in locations where it is encased in concrete, above a security metal ceiling or concealed in concrete chases; to deny the modification request to allow the use of flexible metal conduit within the security perimeter of the Virginia Beach Jail with the exception that flexible conduit is allowed in locations where it is encased in concrete, above a security metal ceiling, concealed in concrete chases or equivalently protected as determined by the Department of Corrections; or to grant the modification request to allow the use of flexible metal conduit within the security perimeter of the Virginia Beach Jail.

She then made the following *MOTION*, which was the original Committee recommendation:

“The Board of Corrections denies the request for modification to Standard 5.44 (6 VAC 15-80 §750) of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow the use of flexible metal conduit within the security perimeter of the Virginia Beach Jail with the exception that flexible conduit is allowed in locations where it is encased in concrete, above a security metal ceiling, concealed in concrete chases or equivalently protected as

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determined by the Department of Corrections. This modification approval shall not be construed as a future modification or variance to Standard 5.44 for this or any other facility.”

The Motion failed due to lack of a second. Ms. Fraser then made the following ***SUBSTITUTE MOTION***:

“The Board of Corrections grants a modification to Standard 5.44 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow the use of flexible metal conduit within the security perimeter of the Virginia Beach Jail. This modification approval shall not be construed as a future modification or variance to this Standard for this or any other facility.”

The Motion was seconded by Mr. Mitchell and unanimously ***APPROVED*** by verbally responding in the affirmative (Burrell, Decker, Fraser, Kallen, Mitchell, Washington). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Two members were absent. The Motion carried.

4) **Board Motion to Approve Revised State Jail Construction Funding Reimbursement for Patrick County Jail**

The approved request for state jail construction reimbursement in October was made using a form that included only locality-requested costs without a staff analysis of eligible costs having been completed. The Motion stated, in part: **“This approval recognizes an estimated total cost of \$12,043,723 of which up to 25% or \$3,010,930 is eligible for reimbursement. This cost is subject to revision at the Board’s November, 2008, meeting.”** That staff analysis has now been fully completed.

The cost of this facility takes into account the small size and rural location of the facility as well as the Board having granted approval of two modification requests, which allow the facility to have a larger than usual percentage of housing in dormitory configuration and reduced requirements for intake space. The cost per bed for the 60 beds is \$179,269. That cost per bed includes expenses associated with expanded kitchen and laundry space for expansion of the facility to 120 beds at some time in the future.

Therefore, by ***MOTION*** duly made by Ms. Fraser and seconded by Mr. Burrell:

“The Board of Corrections approves a revision to County of Patrick’s request for approval of their Planning Study and for state jail construction funding reimbursement for a new, 60-bed jail. This project will include expanded kitchen and laundry space for expansion of the facility to 120 beds. This revised approval recognizes an estimated total cost of \$10,756,128 of which up to 25% or

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\$2,689,032. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994) and Sections 53.1-80 through 82 of the Code of Virginia.”

The Motion was unanimously **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Kallen, Mitchell, Washington). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Two members were absent. The Motion carried.

5) **Compliance and Accreditation
Certifications Section**

Ms. Fraser presented the following certification recommendations for consideration on behalf of the Committee:

Unconditional Certification as a result of 100% compliance for Pocahontas State Correctional Center and Blue Ridge Regional Jail Bedford and Moneta Adult Detention Centers;

And Unconditional Certification for Riverside Regional Jail to include male and female juveniles in accordance with Section 16.1-249(G) of the Code of Virginia and Probation & Parole District 15 (Roanoke).

By **MOTION** duly made by Ms. Fraser and seconded by Mr. Mitchell, the Board **APPROVED** the above recommendations by verbally responding in the affirmative (Burrell, Decker, Fraser, Kallen, Mitchell, Washington). There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Two members were absent. The Motion carried.

6) **Policy & Regulations**

For informational purposes, Ms. Fraser stated a letter had been received from an inmate at Greensville Correctional Center asking exactly what is meant by Code §53.1-7 in which, “The Board may authorize payment of medical expenses incurred by a prisoner after his release or discharge from the Department when such expenses are the result of an injury suffered by the prisoner while incarcerated and not caused by the misconduct of the prisoner.” Currently, the Board has no procedures in place to govern this provision of the Code.

After discussion with Ms. Dow and Mr. Leininger, the Committee asked Ms. Dow to form a committee, which would include a representative of the Attorney General’s Office, to come up with written procedures to address the above. Ms. Dow will present a progress report at the March Board meeting.

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VII. Closed Session

No Closed Session was held.

VIII. Other Business

The Director spoke about his trip to the Association of Southern Correctional Administrators meeting in California. He noted the main topic of conversation was money and what everyone was trying to do to make it through these tough times. He noted that other states are releasing individuals in order to reduce prison populations as well as imposing shorter sentences. Increasing prison populations are an issue across the country and society has to deal with the result; everyone has to step up and take a new look at what we do and what we can afford.

Mr. Broughton remarked on how the placement process was progressing. He indicated 575 employee positions had been abolished and as of November 13, 2008, 320 employees had been placed. Some affected staff members are taking regular retirement, and Human Resources is still working with 230 employees. The Department is working its way through the list of affected employees, based on seniority. Up to this point, he reported the results have been good but there are fewer vacancies now so it is becoming more difficult, especially in Southwest Virginia.

IX. Board Member/Other Comment

The members were polled. Ms. Fraser, Mr. Decker, Mr. Mitchell, Mr. Washington and Mr. Kallen each indicated they had nothing. Mr. Proffitt stated the **Correctional Services Committee meetings will now begin at 10:30 a.m.** This change will be communicated to Department staff. And he closed with a wish for a Happy Thanksgiving and merry holidays to all.

X. Future Meeting Plans

The March 18, 2009, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 10:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

Administration Committee – 12:30 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

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XI. Adjournment

There being nothing further, by **MOTION** duly made by Mr. Washington, seconded by Ms. Fraser and unanimously **APPROVED** (Burrell, Decker, Fraser, Kallen, Mitchell, Washington), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. Two members were absent. The Motion carried.

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY